



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

August 26, 2014

Mr. Bob Martin
Commissioner
New Jersey Department of Environmental Protection
401 East State Street
Trenton, NJ 08625-0402

✓ Ms. Judith Enck
Regional Director
United States Environmental Protection Agency
290 Broadway
New York, NY 10007

Re: Rahway Arch Disposal Site

Dear Mr. Martin and Ms. Enck:

We write to you concerning the Rahway Arch Disposal Site in Carteret, New Jersey. This contaminated disposal site is located on the Rahway River just upstream of the Arthur Kill, a waterway shared by New York and New Jersey along Staten Island's western shore.

By this letter, we respectfully request that NJDEP and EPA take all appropriate action to ensure full public disclosure and review of the site owner's plan for remediation pursuant to the agencies' oversight responsibilities. Without full disclosure, the public cannot be assured that all appropriate actions to protect the environment and public health are being taken.

It is beyond dispute that the Rahway Arch site needs to be remediated because it poses risks to public safety, human health, and water quality. The site includes six impoundments and surrounding berms comprising 85 acres of land along the Rahway River. Beginning in the 1930s and through the early 1970s, the impoundments were used by American Cyanamid for disposal of sludge derived

from the manufacture of alum and yellow prussiate of soda. More recently, untold quantities of sewage sludge and additional undocumented materials have been disposed of at the Site. The resulting sludge mixture weighs two million pounds and is very soft, weak, and unstable, presenting a safety hazard to humans who might come into contact with it. The sludge and surface soils are composed of a variety of substances, including polycyclic aromatic hydrocarbons, cyanide, and metals found in concentrations that may harm human health and/or water quality. Contaminants from the impoundments are leaching into groundwater that supplies water to the Rahway River -- which, in turn, feeds the Arthur Kill. In fact, the site owner's consultant, EastStar Environmental Group Inc., has estimated that every day more than two pounds of cyanide are discharged into groundwater from the Rahway Arch site.

Staten Island residents and their elected officials have questioned whether the Rahway Arch project will provide effective and reliable remediation, including whether the project may even exacerbate current environmental and public health risks associated with the site. The Arthur Kill's waters are already impaired by insufficient oxygen in the water, and contaminated sediments limit fish consumption. The owner of the site, Rahway Arch Properties, LLC, plans to remediate the site by capping it with fill material composed primarily of petroleum contaminated soil. Concerns have been raised that this plan could increase discharges of pollutants from the site and exacerbate existing water quality problems in the Arthur Kill downstream of the site.

The remediation plan has the laudable goals of eliminating direct human contact with contaminants found at the site; reducing pollution of groundwater and surface water by preventing precipitation from coming into contact with site contaminants; promoting runoff and evapotranspiration rather than infiltration; securing the long term integrity of the berms that impound the sludge; and eliminating site safety hazards posed by the soft and weak nature of the sludge.

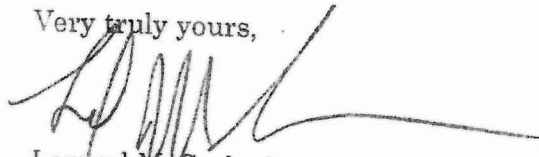
But the public cannot fully assess the effectiveness and reliability of the proposed remediation plan because the site's owner and consultants have not disclosed important information. Concerns have been raised that placement of large quantities of fill material onto the site could compress the sludge and actually increase discharges of pollutants to groundwater, or could result in instability at the site and failures in the cap system or berms leading to a loss of pollutant containment. The owner and its consultants have performed studies which, they contend, show that these concerns are misplaced, but they have not fully disclosed these studies to the public. For example, key portions of the Final Geotechnical Engineering Report dated November 2012, authored by Michael Baker Jr., Inc., have been withheld from public disclosure.

Further, Staten Island residents and their elected officials have raised concerns about the effects of future flooding at the site in the event of severe storms or hurricanes, including loss of pollutant containment. Because of climate change, sea levels can be expected to rise over time, and there is a potential for higher river flows due to more intense precipitation events as well. In fact, the New York Metro region is currently experiencing some of the highest rates of sea level rise along the coastal United States.

For long-lived structures, such as the site's remediation system, good engineering practice now requires that climate concerns be incorporated into system design. For example, under New York State's Storm Mitigation Loan Program, a loan program which was created in the wake of Hurricane Sandy to fund facility upgrades to reduce flooding vulnerability and enhance resiliency at municipal wastewater treatment works, applicants seeking financing in areas subject to sea level rise must consider adding five feet of elevation to base flood elevations. The US Army Core of Engineers, Con Edison, New York City and other entities responsible for long-lived infrastructure are also now incorporating climate change into design standards. The base flood elevations cited by the remedial design engineers do not incorporate changes in conditions due to climate change, including sea level rise, and alone are inadequate to ensure the remedial design will achieve effective and reliable long-term flood protection and pollutant containment at the site in light of climate change. The NJDEP and EPA should request and review design information to ensure the proposed site design adequately incorporates risks from future climate change.

In conclusion, decisions concerning remediation of the Rahway Arch site should be made only after full public disclosure and review of necessary studies and design information. Accordingly, we urge that NJDEP and EPA take action to ensure full public disclosure and review by the agencies of the plan for remediation of the site, including disclosure of all relevant technical documents in their entirety.

Very truly yours,



Lemuel M. Srolovic
Bureau Chief

cc: Ken Kloo, NJDEP